

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA)	
)	
vs.)	Criminal No. 04-176
)	
FREDERICK H. BANKS)	

O R D E R

Frederick Banks ("Defendant") has filed a pleading entitled "Motion for Reconsideration of Order Entered on July 28, 2008 (Doc. 560); and Motion for Summary Judgment," Docket No. 561. In the affidavit attached to the motion, Defendant argues the Court should stay the motion for a new trial pending the outcome of his appeal.

In Docket No. 560, the Court considered Defendant's motion for a new trial; the motion was denied without prejudice for possible reconsideration after Defendant's appeal to the United States Court of Appeals for the Third Circuit was decided. Despite Defendant's urging that this Court "make a definitive [sic] memorandum and state whether it is inclined to grant or deny the motion for a new trial or in the alternative to hold the motion in abeyance," the Court's decision on the motion for a new trial could hardly be stated more definitively than it was in the July 28, 2008 Order. In order to clarify the Court's previous order, however, Defendant's motion for a new trial, timely filed at Docket No. 557, is **stayed** pending the ultimate decision of the Court of Appeals.

As to Defendant's "motion for summary judgment," the subject of that motion is unclear since his only argument in that regard is "an evidentiary hearing is requested along with summary judgment since the Government conceded the issue."

Defendant's motion at Docket No. 561 is therefore granted insofar as he seeks a stay of a decision regarding his motion for a new trial and denied insofar as he seeks "summary judgment."

February 20, 2009

/s/ Joy Flowers Conti
Joy Flowers Conti
United States District Judge

cc by U.S. Mail: Frederick Banks
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